

U.S. DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DWIGHT A. WARE,
5201 WEST FAIRMOUNT AVENUE
MILWAUKEE, WISCONSIN 53218,

PLAINTIFF,

VS.

ATTORNEY FREDERICK KLIMETZ
9130 West Loomis Road, Ste. 550
Franklin, Wisconsin 53132-9726; and

ATTORNEY RICK STEINBERG,
411 EAST WISCONSIN AVENUE STE 2040
MILWAUKEE, WISCONSIN 53202,

DEFENDANTS.

09 APR 15 P2:11

JON W. SANFILIPPO
CLERK

CASE NO. 09-cv-0393

COMPLAINT

PURSUANT TO 42 U.S.C. 1983 THE PLAINTIFF IN THIS ACTION, MR. DWIGHT WARE, IN HIS OWN BEHALF AND WITHOUT THE AID OF FORMAL COUNSEL HEREIN BRINGS FOR SUIT AGAINST THE ABOVE NAMED DEFENDANT ATTORNEYS ALLEGING THAT BOTH ATTORNEYS, WHILE ACTING UNDER THE COLOR OF LAW AND IN OFFICIAL CAPACITY, CONSPIRED TO DENY HIM HIS RIGHTS TO A FAIR TRIAL BY WILLFULLY AND NEGLIGENTLY COERCING HIM INTO A PLEA BARGAIN AGREEMENT AND FAILING TO PUT FORTH THE PROPER MOTIONS SO AS TO WITHDRAW THAT PLEA THEREBY CAUSING HIM TO BE WRONGFULLY CONVICTED AND FALSELY IMPRISONED; SUBJECTED TO DEFAMATION OF CHARACTER AND VARIOUS OTHER IRREPARABLE DAMAGES AND INJURIES IN VIOLATION OF THE 4th, 5th, 6th and 14th AMENDMENTS TO THE U.S. CONSTITUTION.

PARTIES

1. The Plaintiff Dwight Ware is an adult American citizen and lifelong resident of the State of Wisconsin;

2. Both Defendants are licensed criminal attorneys and members of the State of Wisconsin Bar.

STATEMENT OF FACTS

On 12-22-04 the Plaintiff was arrested in the City of Milwaukee and charged with possession with intent to deliver 12 grams of cocaine.

During pretrial consultations with his appointed counsel (Defendant Klimetz) the Plaintiff presented the facts surrounding his arrest whereupon attorney Klimetz manipulated the Plaintiff into agreeing to plead guilty using coercive and threatening arguments despite the Plaintiff's assertions of his innocence and Defendant Klimetz's awareness that the Plaintiff had a cogent defense to the charges against him.

Subsequent to this event, Defendant Klimetz withdrew from the Plaintiff's case after making admissions of this allegation to the Court.

After withdrawing from the Plaintiff's case, the Court appointed Defendant Steinberg to take over representation for the purpose of drafting a motion to withdraw the guilty plea on grounds that it was induced as stated by attorney Klimetz on the record.

After being appointed to the case, Steinberg expressed an unwillingness to assert the Plaintiff's right to a fair trial and subsequently falsely testified to the court that during privileged communications with him (attorney Steinberg) the Plaintiff admitted guilt. Further, Defendant Steinberg went on to make assertions on the record that he did not believe attorney Klimetz would fail to represent a client in the manner that attorney Klimetz had already admitted to so doing. Based on this representation, the court refused to withdraw the Plaintiff's plea whereby he was falsely convicted and sentenced to prison.

ALLEGATIONS

The Plaintiff alleges that attorney Klimetz is liable to the Plaintiff for the false imprisonment and other collateral damages he suffered as a result of being convicted, imprisoned, and having served extended supervision when in fact the Plaintiff would have been exonerated had attorney Klimetz put forth a defense based on the premise that his client was innocent—just as the Plaintiff asserted to him during initial interviews.

The Plaintiff alleges that Defendant Steinberg exhibited **bad faith** by conspiring to prevent the Plaintiff from exercising his constitutional right to a fair trial by jury by negligently failing to draft and argue the motion to withdraw plea he was appointed to make so as to cover up the negligence of Defendant Klimetz, thereby also denying the Plaintiff effective assistance of counsel as guaranteed by the U.S. Constitution.

DAMAGES

The Plaintiff herein demands compensation from Defendant Klimetz in the amount of \$2,000,000.00 in compensatory damages and \$3,000,000.00 in punitive damages.

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The Plaintiff also demands compensation from Defendant Steinberg in the amount of \$2,000,000.00 in compensatory damages and \$3,000,000.00 in punitive damages.

SO PRAYED

PLAINTIFF BY:

Dated 4-13-09

Dwight Ware
Mr. Dwight Ware, pro se